

**Annual Report of Bankruptcy Appeals in Participating BAP  
Districts for the Calendar Year July 1, 1998 – June 30, 1999  
(Including Disposition Statistics for Appeals Disposed of  
Since July 1, 1996)**

Prepared by the BAP Clerk's Office  
on behalf of the  
United States Bankruptcy Appellate Panel  
of the Tenth Circuit

November 24, 1999

**PRELIMINARY NOTES**

The following numbers were calculated from monthly reports provided by the Bankruptcy Courts. The relevant dockets of both the Bankruptcy Courts and the District Courts were examined to verify the information.



## ELECTIONS (Filed Appeals)

The following chart shows the data for all appeals in which the notice of appeal was filed with the Bankruptcy Court between July 1, 1998, and June 30, 1999. The data contained in this table was selected using criteria that differs from that used to select data for the other tables contained in this report,<sup>1</sup> and thus the information in this table will not necessarily correspond to that contained in the other tables.

	<b>'98-99:</b>	<b>% of Appeals:</b>	<b>Change '97-98 to '98-99:</b>
All appeals:	153	100.0%	-21.9%
Initial election to appear before the BAP:	93	60.8%	+3.7%
Initial elections to have appeal heard by District Courts:	60	39.2%	-3.7%
BAP appeals transferred to District Court on subsequent election:	24 <sup>2</sup>	15.7%	+5.0%
Total appeals electing to proceed before BAP:	69	45.1%	-1.3%
Total appeals electing to proceed before District Courts:	84	54.9%	+1.3%

---

<sup>1</sup>For the purposes of this particular table, information was gathered regarding all appeals filed in the Bankruptcy Courts during the period from July 1, 1998, to June 30, 1999. All later tables show only appeals docketed by either the District Court or the BAP during that time period. Use of the date the notice of appeal was filed with the Bankruptcy Court prevents undercounting elections where either the notice of appeal was disposed of by the Bankruptcy Court before the record was sent to the District Court, or where an election was granted by the BAP but the record had not been received by the District Court.

<sup>2</sup>This figure shows all elections to have an appeal heard by the U.S. District Court granted by the BAP from July 1, 1998, to June 30, 1999, regardless of when the notice of appeal was filed.

## ELECTIONS (Docketed Appeals)

The following chart is based only upon appeals docketed by either the District Courts or the BAP between July 1, 1998, and June 30, 1999. This accords with the practice of the Administrative Office.

	<b>'98-99:</b>	<b>% of Appeals:</b>	<b>Change '97-98 to '98-99:</b>
Total number of appeals docketed:	152	100.0%	-23.2%
Appeals initially docketed with the BAP:	98	64.5%	+7.4%
Appeals subsequently transferred to the District Courts:	24 <sup>1</sup>	15.8%	+5.1%
Appeals initially docketed with the District Courts:	54	35.5%	-7.4%

(cont'd)

---

<sup>1</sup>This figure shows all elections to have an appeal heard by the U.S. District Court granted by the BAP from July 1, 1998, to June 30, 1999, regardless of when the appeal was filed, and regardless of whether the District Court has docketed the appeal. Some of these elections were not docketed by the District Courts before the end of this reporting period. Conversely, some elections docketed by the District Courts may have been granted by the BAP during the previous reporting period.

## ELECTIONS (Docketed Appeals) (cont'd)

The total number of appeals subject to final disposition before each court is as follows:

	<b>'98-99:</b>	<b>% of Appeals:</b>	<b>Change '97-98 to '98-99:</b>
Total appeals docketed and proceeding before both intermediate appellate courts:	150	100.0%	-25%
Appeals docketed and finally proceeding before the BAP:	74	49.3%	+3.3%
Appeals docketed and finally proceeding before District Courts:	76 <sup>1</sup>	50.7%	-3.3%

---

<sup>1</sup>This figure includes only those elections actually docketed by the District Courts during the reporting period. Some elections granted by the BAP were not docketed by the District Courts before the end of this reporting period. Conversely, some elections docketed by the District Courts may have been granted by the BAP during the previous reporting period. See page 3, footnote 1, *supra*.

## DISPOSITIONS

The following chart is based upon all cases docketed by the BAP for the three-year period from July 1, 1996, to June 30, 1999.

	<b>Total:</b>	<b>% of All Docketed BAP Appeals:</b>
Appeals docketed and finally proceeding before the BAP:	226	100.0%
Appeals disposed of by the BAP:	193	85.4%

The following calculations are based only on appeals actually disposed of by the BAP for the three-year period from July 1, 1996, to June 30, 1999.

	<b>Total:</b>	<b>% of All Disposed Appeals:</b>
Disposed Appeals:	193	100.0%
Appeals Disposed of on the Merits:	97	50.3%
Appeals Affirmed:	59	30.6% (60.8% of appeals disposed of on merits)
Appeals Reversed (or Reversed and Remanded):	38	19.7% (39.2% of appeals disposed of on merits)

## DISPOSITION TIME

The following calculations are based only on appeals actually disposed of by the BAP between July 1, 1996, and June 30, 1999. Note that the disposition time is measured from the date that the notice of appeal was filed with the Bankruptcy Court to the date of entry of the final disposition in the appeal.

BAP Appeals--Average Disposition Time:	151.4 <sup>1</sup>
Median Disposition Time:	143.0

---

<sup>1</sup>Four of the appeals disposed of during the report period were filed with the District Court prior to the effective date of the BAP, and subsequently transferred to the BAP with the consent of all of the parties. Including those figures here would severely skew the results (an average of 753.8 days elapsed between the date the notice of appeal was filed and the date the BAP docketed the appeal). The disposition time for those four appeals averaged 82.8 days, measured from the date the notice of appeal was docketed by the BAP to the date the appeal was disposed.

## APPEALS TO CIRCUIT

The figures below provide the number of appeals from the BAP to the Tenth Circuit Court of Appeals for the three-year period from July 1, 1996, to June 30, 1999.

		<b>% of Appeals Disposed of By the BAP:</b>
Appeals from BAP to Circuit:	29 <sup>1</sup>	15.0% (29.9% of all appeals disposed of on the merits).

Disposed Circuit Appeals from BAP:	21	
Circuit Appeals from BAP Disposed of on Merits:	8	
Appeals Affirmed by Circuit:	8	100.0% of appeals disposed of by Circuit on merits.
Appeals Reversed (or Reversed and Remanded) by Circuit:	0	0.0% of appeals disposed of by Circuit on merits.

Average Disposition Time for Circuit for Appeals taken from BAP (from date notice of appeal filed to date terminated):	189.3
---	-------

---

<sup>1</sup>Six of these appeals remained pending before the U.S. Court of Appeals for the Tenth Circuit as of June 30, 1999. Of the twenty-one appeals disposed of, eight were affirmed, and the remaining thirteen were dismissed.